

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

Lavadre Butler, #337779,

Plaintiff,

v.

Trevor Bessinger, Lisa Young,
Gregory Washington, Mr. Esterline,
Mr. Suarez, Mr. Braddy, Mr. Shorter,
Mr. Williams,

Defendants.

Civil Action No. 4:16-3662-RMG

ORDER

Before the Court is Defendant Trevor Bessinger's consent motion to stay this matter pursuant to the Servicemembers' Civil Relief Act ("SCRA"), 50 U.S.C. § 3901, *et seq.* (Dkt. No. 209.)

The SCRA allows a civil plaintiff or defendant to apply to stay the proceeding if he is in "military service" and has received notice of the proceeding. *Id.* § 3932(a)(1), (2). The servicemember's application for a stay must (i) set forth facts regarding the manner of his service and the date when he will be available to appear, and (ii) include a letter or communication from his commanding officer stating that his current military duty prevents appearance and that leave is not authorized at the time. *Id.* § 3932(b)(2). Upon submission of such an application, "the court . . . shall . . . stay the action for a period of not less than 90 days." *Id.* § 3932(b)(1).

Mr. Bessinger states that he is currently on active military service, deployed with the National Guard to the Middle East and expected to return in August 2020. (Dkt. No. 209.) Mr. Bessinger's supervisor, Major John W. Cummings, affirms that he is on active duty deployment. (Dkt. No. 209-1.)

A member of the National Guard is in “military service” under the SCRA when serving “under a call of duty authorized by the President or the Secretary of Defense for more than thirty consecutive days, for purposes of responding to a national emergency declared by the President and supported by Federal funds.” 50 U.S.C. § 3911(2)(A)(ii). The Court finds that the statutory applicability requirements and conditions for stay are satisfied. The Court further finds that Mr. Bessinger is an essential party whose presence or participation is required in this matter, and that he does not seek a stay to cause undue delay or prejudice.

Accordingly, Mr. Bessinger’s consent motion to stay (Dkt. No. 209) is **GRANTED** and the Court **ORDERS** this matter **STAYED** until August 1, 2020. The parties are **DIRECTED** to file a joint status report on the status of Mr. Bessinger’s deployment every sixty (60) days from the date of this Order.

AND IT IS SO ORDERED.


Richard Mark Gergel
United States District Court Judge

August 20, 2019
Charleston, South Carolina